

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

L.J., individually and on behalf of B.A.J., a child with a disability,

Plaintiff,

-v-

NEW YORK CITY DEPARTMENT OF EDUCATION, NEW YORK CITY BOARD OF EDUCATION, and DAVID BANKS, in his official capacity as Chancellor of the New York City School District,

Defendants.

Case No. 23-cv-7267 (ER)(SDA)

Hon. Edgardo Ramos

NANCY ROTHENBERG, an attorney licensed to practice in the State of New York, admitted to the Southern and Eastern District, affirms under penalty of perjury:

1. I am an attorney duly admitted to practice and was admitted in 1994 into the First Department in New York and currently admitted in the United States District Courts of the Eastern and Southern District.
2. I received my bachelor's degree from Tulane University in 1990, and my Juris Doctorate in 1993, from the Cardozo School of Law, where I was a member of the Criminal Law Clinic and Innocence Project. I began my career immediately as an Assistant District Attorney for the Bronx District Attorney's Office. I was admitted to the New York Bar in 1994. From 1993-1999, for seven years, I prosecuted all aspects of misdemeanor and felony cases, and I have extensive trial and related litigation experience. I brought approximately 10 to 12 cases to verdict on a yearly basis during the time that I was a prosecutor.

3. During the years of 2000-2008, I worked as an attorney advocate for families to secure least restrictive environments and worked with Autism Speaks board members to raise national awareness.

4. From 2008 to 2014, I worked as an Of Counsel attorney for Goldblatt and Associates, P.C. in Westchester County, as a Criminal Defense and Education attorney in Special Education, where I participated in many lengthy due process and suspension hearings in Westchester, Putnam and Dutchess Counties in New York State.

5. From 2012 to 2017, I also worked Of Counsel to The Cuddy Law Firm solely representing families against the New York City Department of Education. I participated in approximately 120 hearings per year against the New York City Department of Education. The Cuddy Law Firm billed my hourly rate of \$500.00 for the years 2013-2015, and then billed my hourly rate at \$525.00 for the years 2016-2017. The Department of Education settled for my rate in all of the cases billed.

6. I started my solo private practice when I incorporated as Law Offices of Nancy Rothenberg, PLLC, in 2014, in the area of Special Education and Disability Rights. I represent parents and young people in impartial administrative hearings and through all subsequent implementation and appeals. For the past ten years, my practice has focused on cases against the New York City Department of Education.

7. The practice of special education law is very complex and specialized. Our firm's demands for due process complaints involve multiple issues including evaluations, programs, placements and compensatory services frequently spanning many school years within one complaint.

8. A majority of our clients cannot afford to pay attorney fees and expenses and yet their children with disabilities have legitimate claims and we agree to take those cases on contingency that we will prevail. As such, those clients agree to cooperate in recovery of attorney fees from the school district, namely the New York City Department of Education.

9. I billed the New York City Department of Education during the years of 2014-2017 at \$500.00 an hour for my solo practice. In 2017, I raised my rate to \$525.00 an hour, which I believe reflects comparable rates within the Eastern and Southern District of New York for attorneys in the field of Special Education, given my skills and experience. I have received countless payments from the Department at this hourly rate in settlement of my fees.

10. I also have other attorneys who work in an Of Counsel capacity for me, under my law firm. Ms. Naomi Abraham, who we bill at \$400.00 an hour and Ms. Kristan Connolly, who we bill at \$375.00 an hour. Ms. Abraham graduated from Columbia Law School and was then admitted to the New York Bar in 2004. Ms. Connolly was admitted to the New Jersey Bar in 2013 and the New York Bar in 2014. We also have a very experienced Senior Paralegal, Ms. Diane Aughtmon, who has worked in special education for our firm and other law firms for over twenty-five years. We bill \$250 an hour for Ms. Aughtmon.

11. Currently, our law firm files hundreds of cases against the New York Department of Education representing families in all five boroughs of New York City. We take cases to full litigation and annually receive approximately 100 findings of fact and decisions after full hearings.

12. These hourly rates stated in this declaration are the rates quoted to the public who are considering retaining our firm and agree to pay the full rates without relying on the fee-

shifting provision as well as those who we intend to collect payment of fees from the school district.

13. Given that clients have paid, and do pay, our full hourly rates and given that our rates are in line with other similarly situated attorneys in the Special Education Law field, I submit that the Court should view our rates as reflective of fair market value.

14. Special Education Law entails a great deal of expertise in not only the legal practice during administrative hearings and federal practice, but also the understanding and advocacy of complex and lengthy records and programs to aid in the obtaining of an appropriate program for children with a disability.

15. I have reviewed the rates charged by attorneys practicing in the area of education law throughout the geographic areas of New York and have personal knowledge that the rates charged to clients paying for legal services for administrative hearings and appeals range between \$375 and \$650 per hour.

I am submitting this declaration for the purposes stated herein. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Westchester County, New York on February 8, 2024.

Dated: February 8, 2024
Westchester County, New York

Nancy Rothenberg, Esq.

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